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IDAHO DEPARTMENT OF PARKS AND RECREATION POLICY AND PROCEDURES MANUAL

PROCEDURE TITLE: Controlled Substance Abuse Policy

APPROVAL: 
Director

HUMAN RESOURCE OFFICER
Policy Owner

OVERVIEW:

PURPOSE

The Omnibus Transportation Employee Testing Act of 1991 and Title 49, Parts 40 and 382, *Code of Federal Regulations*, require the implementation of an alcohol and controlled substances testing program. The Department recognizes that misuse of alcohol and/or unlawful use of controlled substances and drug dependency may result in workplace accidents, absenteeism, substandard work performance and loss of productivity. The Department is also concerned with the adverse effect on the well being of employees, their families, co-workers, and the public. Any employee whose job duties require a Commercial Driver's License shall be considered as being "covered" under the alcohol and controlled substances testing program. All employees affected by alcohol and/or controlled substances regulations shall be given the regulations and information as required by the *Code of Federal Regulations* 382.601 and must sign a statement of receipt.

ADMINISTRATION

Administration of the Department's alcohol and controlled substances testing program and maintenance of all records relating to the testing program shall be handled by the Department's Human Resource office. **Employee documents relating to alcohol and/or controlled substances testing, or related incidences, are to be maintained in the Driver's Qualification File only** held in the Human Resource office. Copies are not to be maintained at the bureau, region or park levels. All information specifically related to drug testing of covered employees and external applicants is **confidential** and only those who have a need for the information in the performance of their duties will be allowed access to the records.

GENERAL ALCOHOL/CONTROLLED SUBSTANCES PROHIBITIONS

The employee's use of alcohol and/or drugs becomes a matter of concern to the Department when such use interferes with job performance, conduct, attendance, or safety of state employees or others. Disciplinary actions up to and including dismissal can result when an employee misuses alcohol and/or abuses drugs.

All Department employees are subject to the following alcohol and drug prohibitions:

- The consumption of alcohol or use of controlled substances on the job is **prohibited**.
- The unlawful manufacture, distribution, dispensing, possession or misuse of alcohol and/or drugs is prohibited in the workplace.
- The use of any controlled substances and/or drugs, unless prescribed for that employee by a person licensed to practice medicine, is prohibited. Employees shall inform their immediate supervisor when they are taking prescribed drugs or over-the-counter drugs that may impair their work performance.
- In accordance with CFR, Title 49, Part 40 and 382, alcohol and controlled substances testing shall be required for employees whose job duties require commercial driver's license and perform safety sensitive functions.
- Employees whose job duties require operation of Department vehicles that meet the definition of a commercial motor vehicle must (1) have a valid Idaho Commercial Driver's License; (2) meet other driver requirements, and (3) be tested for alcohol and controlled substances according to federal regulations and shall be referred to as covered employees in this document.

JOB CATEGORIES REQUIRING TESTING

A Commercial Driver's License is required for operation of Department vehicles that meet the commercial motor vehicle definition listed below.

Motor vehicles or combination of motor vehicles used in commerce to transport passengers or property that:

- Have a gross combination weight rating of 26,001 pounds or more, inclusive of the towed unit with a gross vehicle weight rating of more than 10,000 pounds.
- Have a gross vehicle weight rating of 26,001 pounds or more.
- Is designed to transport 16 or more passengers, including the driver.
- Is of any size and is used in the transportation of materials that are found to be hazardous for the purposes of the Hazardous Materials\Transportation Act and require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR, Part 172, subpart F).

Department employees whose job duties require a CDL and who perform safety sensitive functions shall be alcohol and controlled substances tested and are considered to be covered employees when operating a commercial motor vehicle. This includes, but is not limited to:

- Full-time, regularly employed drivers.
- Casual, intermittent or occasional drivers.

The covered employee designation also includes applicants who are applying to drive a Department-controlled commercial motor vehicle.

AND

Performing, are ready to perform, or are immediately available to perform any of the following **safety sensitive** functions:

1. All time at a Department facility or other property, or on any public property, waiting to be dispatched, unless the covered employee has been relieved from duty by the Department.
2. All time inspecting equipment or otherwise inspecting, servicing, or conditioning any commercial motor vehicle for the Department.
3. All driving time that is spent at the controls of a Department-controlled commercial motor vehicle.
4. All time, other than driving time, in or upon any Department-controlled commercial motor vehicle except time spent resting in a sleeper berth.
5. All time loading or unloading a vehicle, supervising, or assisting in loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the Department-controlled vehicle, or in giving or receiving receipts for shipments loaded or unloaded.
6. All time repairing, obtaining assistance, or remaining in attendance upon a disabled Department-controlled vehicle.

Other positions that may require testing are:

- Leased drivers.
- Independent, owner-operator contractors who are directly employed by or under lease to the Department or who operate a commercial motor vehicle at the direction of or with

the consent of the Department.

TEST PROCEDURES

Tests for controlled substances are limited to marijuana, cocaine, amphetamines, opiates, and phencyclidine (PCP). The testing method is by urine specimen. Specimen collection, handling, and testing procedures are conducted according to the U.S. Department of Health and Human Services (DHHS) guidelines. The test for alcohol will be conducted by a Breath Alcohol Technician using an EBT as approved by the National Highway Traffic Safety Administration (NHTSA).

To ensure the accuracy of test results, the Department utilizes independent laboratories that conform to DHHS guidelines. Each urine specimen is subjected to an initial screening test. Specimens that test positive (showing a concentration of controlled substances that exceed the cut-off levels established by DHHS) undergo a second, independent test to identify the specific type of drug(s) in the specimen. Alcohol tests must be conducted by a Breath Alcohol Technician using an EBT device. If the results of the first screening EBT is an alcohol concentration of 0.02 or greater, a confirmation test will also be conducted.

Applicants and covered employees who are required to be tested must be positively identified prior to taking the test. The collection site and procedures are designed to allow individual privacy and preserve the dignity of each person tested. Direct observation of the urine sample collection will not normally be required, but may be necessary if there is reason to believe a specimen could be tampered with or substituted.

COVERED EMPLOYEE PROHIBITIONS

ALCOHOL CONSUMPTION PROHIBITIONS:

In addition to the general prohibitions that apply to all employees, **a covered employee may not:**

1. Report for duty or remain on duty when required to perform safety sensitive functions while having an alcohol concentration of 0.04 or greater. The Department, when aware that the driver has an alcohol concentration of 0.04 or greater, cannot permit the driver to perform or continue to perform safety sensitive functions.
 - A covered employee, whose alcohol breath test shows an alcohol concentration of 0.02 or greater, but less than 0.04, will be considered to be out of service and cannot perform safety sensitive functions **for at least 24 hours** following an alcohol test.
 - For the safety of the employee and the public, the employee will be placed on leave

without pay for any regularly assigned shift period within the first 24 hours after the test.

2. Possess or use alcohol while performing safety sensitive functions. The possession of medicines containing alcohol (prescription or over-the-counter) is also prohibited unless the packaging seal is unbroken.
3. Perform safety sensitive functions **within four (4) hours** after using alcohol.
4. Consume alcohol when required to take a post-accident alcohol test under *Code of Federal Regulations* 382.303 for eight (8) hours following the accident, or until undergoing the post-accident alcohol test, whichever occurs first.
5. Refuse to submit to a required alcohol test. The Department shall not allow an employee who refuses to submit to a required test to perform or continue to perform safety sensitive functions.

CONTROLLED SUBSTANCES PROHIBITIONS:

In addition to the general prohibitions that apply to all employees, a **covered employee may not:**

1. Report for duty or remain on duty when required to perform safety sensitive functions while using controlled substances, except when the use is pursuant to a doctor's orders and the doctor has advised the employee that the substance does not adversely affect the employee's ability to safely operate a commercial vehicle.
2. Report for duty, remain on duty, or perform a safety sensitive function if the employee tests positive for controlled substances.
3. Refuse to submit to a required controlled substances test. The Department shall **not** allow an employee who refuses to submit to a required test to perform or continue to perform safety sensitive functions.
4. Use of medical marijuana, hemp or hemp products that causes a Positive controlled substance test result will not be accepted under DOT rules and regulations.

REFUSAL TO SUBMIT TO REQUIRED TESTS

An employee will be considered to have refused to submit to required alcohol and controlled substances tests when the employee:

- Refuses to take a required breath alcohol test;
- Fails to provide an adequate breath sample for required alcohol testing without a valid medical explanation;

- Refuses to take a required drug test;
- Fails to provide an adequate urine sample for required drug testing without a valid medical explanation;
- Engages in conduct that clearly obstructs the alcohol testing process and/or specimen collection process;
- Fails to report to the testing location and/or collection site when required;
- Adulterates a specimen

Failure to submit, as listed above, will be treated as if the applicant or employee tested at 0.04 or greater for alcohol or positive for drugs. Employees who refuse to submit to testing when required will be immediately removed from performing any safety sensitive functions and will be subject to dismissal.

RELEASE OF TEST INFORMATION BY PREVIOUS EMPLOYERS

Previous employers must make test information available to subsequent employers upon receipt of a written request from the former employee. The Department, after obtaining written consent, shall contact previous employers to obtain alcohol and controlled substances testing information for the previous two (2) years, or portion thereof. The information must include:

- Any alcohol test results with a breath alcohol concentration of 0.04 or greater (positive test).
- Any controlled substances test results that were positive.
- Any refusal to submit to a required alcohol or controlled substance test.
- Negative test results during employment.

To obtain information on previous employment, the supervisor completes the following:

- **Driver Program Participation Verification and Release - applicant completes a** separate form for each previous employer for the last two (2) years, or portion thereof. The applicant completes Driver's name and signature, and Drug Testing Program Name, Telephone, Location and Contact information.
- ***Supervisor mails completed Driver Program Participation Verification and Release forms to previous employers. Previous employers will return completed forms directly to the Human resource office.***

If the Human resource office receives information from a previous employer that the covered

applicant has tested positive for controlled substances, tested at or above 0.04 breath alcohol concentration, or refused to test, the covered applicant must supply the Department with evidence of being evaluated by a substance abuse professional, completing any required counseling, passing a return-to-duty test, and/or being subject to follow-up testing.

If the applicant cannot provide this evidence, the conditional offer of employment will be withdrawn.

- *The supervisor gives the applicant a Withdrawal of Conditional Offer of Employment Letter, and forwards a copy of the letter to the Human Resource office.*

TEST CONDITIONS

An alcohol and controlled substances test is required when one or more of the conditions listed below are met.

1. PRE-EMPLOYMENT TEST:

Applicants who are offered a position with job duties requiring a Commercial Driver's License are subject to a controlled substances test. The pre-employment test must have a **negative result** before employment is confirmed and the applicant is allowed to start work. The conditional offer of employment test may be waived if the applicant meets the exception requirements listed in the *Code of Federal Regulations* 382.3018. Covered applicants who have a negative pre-employment test may begin work, but may not perform any safety sensitive functions until all information from previous employers has been obtained and reviewed to ensure no history of positive tests.

If feasible, the information from previous employers will be obtained and reviewed by the Department prior to the first time the employee performs safety sensitive functions for the Department. If not feasible, the information will be obtained and reviewed as soon as possible, but no later than 14 calendar days after the first time the employee performs safety sensitive functions for the Department. The Department will not permit the employee to perform safety sensitive functions after 14 days without having made a good faith effort to obtain this information. If an employee hired or used by the Department ceases performing safety sensitive functions for the Department before expiration of the 14-day period or before the Department has obtained the information, the Department will still make a good faith effort to obtain this information.

The Department will maintain a written, confidential record of the information obtained. If, after making a good faith effort, a company is unable to obtain the information from a previous employer, a record will be made of the efforts to obtain the information and be

retained in the employee's qualification file. The release of any information from the previous employer(s) may take the form of personal interviews, telephone interviews, letters or any other method of transmitting information that ensures confidentiality. The information from the previous employer(s) may be provided directly to the prospective employer by the driver, provided the prospective employer verifies that the information is true and accurate.

After twelve (12) months, applicants who previously tested positive must have a negative controlled substances test and provide proof of a professional substance abuse evaluation and participation in follow-up treatment or successful completion of a rehabilitation program before the applicant can be considered for employment in positions that require a CDL.

Department employees who are promoted, demoted or transferred into a position that has job duties requiring a Commercial Driver's are considered to be given a conditional offer of employment until a controlled substances test is completed and **negative test results** are received. **The test result must be negative before employment is confirmed** and the employee is allowed to perform any safety sensitive functions. **Employees who test positive will not be allowed to fill the position.** The employee shall be counseled to seek professional assistance. After twelve (12) months and as future vacancies occur in positions that have job duties that require a Commercial Driver's License, the employee may again be considered, if proof of a successfully completed drug rehabilitation program is provided and a new test is negative. Employees are tested **only** if the job duties require a Commercial Driver's License.

Offers of employment to all covered temporary, entrance and promotional probationary, demoting and transferring employees shall be made in writing and shall include specific language stating that the employment offer is conditional, based on a negative controlled substance test, AND either no positive test results documented by previous employers of the last (2) years, or proof of participation in a rehabilitation program as outlined above. Supervisors should work with the Human Resource Office to provide a conditional job offer and may use the Sample Conditional Job Offer Letter as a format for offer letters to temporary employees. The Human Resource Office is responsible for offer letters to classified entrance or promotional, probationary employees.

The following must be completed for all covered temporary or entrance probationary applicants, and for all covered promotional, demoting or transferring employees:

1. *Pre-Employment Urinalysis Consent - completed by applicant or employee and sent to Human Resource office.*
2. *Alcohol and Controlled Substances Testing Consent - completed by applicant or employee and sent to Human Resource office.*
3. *Driver Briefing and Instructions for Drug Testing - information sheet retained*

by applicant or employee.

4. **Passport Northwest Drug Testing Service Account** - completed by supervisor and given to applicant or employee to take to test/collection site.
5. **Omnibus Transportation Employee Testing Act of 1991 Federal Regulations, Part 382 - Controlled Substances and Alcohol Use and Testing** retained by applicant or employee.

If the applicant has a positive Pre-employment test, the supervisor will give the applicant a Withdrawal of Conditional Job Offer Letter, and forward a copy of the letter to the Human Resource office.

2. RANDOM TEST:

To ensure that each covered employee has an equal chance of being selected for random testing, a computer-generated selection process is used. The annual number of random tests must be at least equal to ten percent (10%) of the covered employees for alcohol testing and fifty percent (50%) of the covered employees for controlled substances testing.

All random tests will be unannounced and scheduled throughout the calendar year. An employee shall be tested for alcohol only just before, while performing, or just after ceasing to perform safety sensitive functions. Employees who are performing safety sensitive functions at the time of notification shall cease to perform the safety sensitive function and proceed to the testing site within two hours.

Upon notification by the supervisor, selected employees will be instructed to proceed within two hours to the collection/test site.

The supervisor will give the employee the following forms:

1. **Driver Briefing and Instructions for Drug Testing** - information sheet retained by employee.
2. **Drug/Alcohol Test Authorization** - completed by supervisor and given to employee to take to test/collection site.

Employees are not required to be notified and tested if they are:

- Not scheduled to work the day of the notification;
- On lay off;
- On vacation, or
- Have reported in sick

The Department has the right to withhold the employee's name in confidence pending the employee's return to work. Upon the employee's return, the Department will then notify the

employee that he/she has been selected for random testing, as long as the notification is prior to the next random selection. If the next random selection has been conducted prior to employee notification, the Department will not require the employee to be tested based on the previous random selection. The Human Resource Office will maintain a record indicating why the selected employee did not previously test.

3. REASONABLE SUSPICION TEST:

A supervisor can require an alcohol and/or controlled substances test of a covered employee when the supervisor has reasonable suspicion that the covered employee is alcohol and/or drug impaired while on duty. Evidence that may provide reasonable suspicion includes current, specific observations concerning appearance, behavior, speech and/or body odors of the covered employee (see Observed Behavior/Reasonable Suspicion Record). The mere possession of alcohol does not constitute a need for reasonable suspicion testing.

Observations for alcohol testing must be made during, just preceding, or just after the period of the work day that includes safety sensitive functions. A written record shall be made of the observations leading to the alcohol test and signed by the supervisor who made the observations. If an alcohol test is not administered within two (2) hours following the reasonable suspicion determination, the supervisor shall prepare a written record stating the reasons the alcohol test was not promptly administered. If the alcohol test has not been administered within eight (8) hours, the supervisor shall cease attempts to administer an alcohol test and shall state in the record the reasons for not administering the test. The record must be sent to the Human Resource Office to be placed in the Driver's Qualification File. **Copies are not to be maintained at the bureau/region/park level.**

Observations for controlled substances must be current, specific observations, concerning the appearance, behavior, speech and/or body odors of the covered employee and may include indications of chronic use and withdrawal effects of controlled substances. A written record shall be made of the observations leading to a controlled substances test and signed by the supervisor who made the observations. The record must be sent to the Human Resource office to be placed in the Driver's Qualification File. **Copies are not to be maintained at the bureau/region/park level.**

If the supervisor has reasonable suspicion that a covered employee is under the influence of alcohol or a controlled substance, the supervisor completes the Observed Behavior/Reasonable Suspicion Record. The record is sent to the Human Resource office.

The supervisor will advise the employee to submit to an alcohol and/or controlled substances test and give the employee the following forms:

1. *Driver Briefing and Instructions for Drug Testing* - information sheet retained by employee.

2. **Drug/Alcohol Test Authorization** - completed by supervisor and given to employee to take to test/collection site.

SPECIAL NOTE: IF A SUPERVISOR SUSPECTS THAT AN EMPLOYEE IS UNDER THE INFLUENCE OF ALCOHOL AND/OR A CONTROLLED SUBSTANCE, THE SUPERVISOR MUST ENSURE THAT ARRANGEMENTS ARE MADE TO TRANSPORT THE EMPLOYEE SAFELY TO AND FROM THE TEST/COLLECTION SITE. EMPLOYEES SHOULD NOT BE ALLOWED TO DRIVE THEMSELVES TO OR FROM THE TEST/COLLECTION SITE.

4. POST-ACCIDENT TEST:

Whenever a covered employee is operating a Department-controlled commercial motor vehicle on a public road and is involved in a qualifying accident, an alcohol and controlled substances test must be conducted when there is a fatality involved or the driver receives a citation for a moving traffic violation relating to the accident.

A **qualifying accident** is when a commercial motor vehicle that is operated on a public road is in an occurrence:

- That results in a fatality.
- Where there is bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident.
- Where one or more motor vehicles are disabled due to the accident and must be towed or otherwise transported from the scene.

The driver, who is subject to post-accident testing, **must remain available** or the Department may consider the driver to have refused to submit to testing. The tests must be administered within the first two (2) hours, whenever possible, and **no later than eight (8) hours for alcohol or no later than thirty-two (32) hours for controlled substances**. If the alcohol test is not administered within two (2) hours following the accident, the supervisor shall prepare a written record stating the reasons the tests were not promptly administered.

If no tests were administered within the maximum time limits, the supervisor shall cease attempts to administer the tests and shall record the reasons for not administering the test(s). The record must be sent to the Human Resource Office to be placed in the Driver's Qualification File.

Employees are encouraged to participate in alcohol and controlled substances testing after any accident involving a Department commercial motor vehicle. The Department will pay

for these post-accident tests, whether it was a qualifying accident or not.

Alcohol and controlled substances tests that are administered by hospitals or law enforcement following an accident may be used for the required testing if the covered employee signs a release; the required testing is completed according to applicable federal, state or local requirements; and are provided to the Department. **If the employee does not sign the release, the Department would consider that the employee refuses to test.**

Whenever an employee is involved in an accident, they use the Post Accident Testing Requirements form and flow chart to determine the need to submit to alcohol and controlled substances tests. If so, the employee contacts the supervisor immediately for instructions on where to go for testing. The employee has the option of submitting to alcohol and controlled substances testing, regardless of whether the accident qualified or not.

If the supervisor becomes aware of an employee's involvement in a qualifying accident within the maximum time limits described above, the supervisor will advise the employee to submit to alcohol AND controlled substances tests, contact the Human Resource Office to get a Drug/Alcohol Test Authorization and give the employee the following forms:

- 1. Driver Briefing and Instructions for Drug Testing - information sheet retained by employee.*
- 2. Drug/Alcohol Test Authorization - completed by the Human Resource Office, faxed to the supervisor and given to employee to take to test/collection site.*

If no tests were administered within the maximum time limits, the supervisor shall cease attempts to administer the tests and shall record the reasons in the form of a memorandum for not administering the tests. The memorandum is sent to the Human Resource Office.

5. RETURN-TO-DUTY TEST AND FOLLOW-UP TEST:

If the Department chooses not to dismiss an employee who has had a positive test result, a negative return-to-duty test is required after a covered employee has had a positive test. (The negative return-to-duty alcohol test must have a result indicating an alcohol concentration of less than 0.02.)

The covered employee may also be subjected to a minimum of six (6) follow-up tests for a period of twelve (12) months after the initial negative return-to-duty test based on the evaluation by a substance abuse professional. Each follow-up test must be negative for the covered employee to continue on the job. Follow-up alcohol tests shall be conducted only when the driver is performing safety sensitive functions, just before or just after. The test date will be **unannounced** and the covered employee will be instructed to report immediately to the collection site.

Continuing attendance in an alcohol or drug rehabilitation program recommended by the substance abuse professional, until successfully completed, is also required for a covered employee to return to duty.

An employee failing to comply with any part of the rehabilitation program as stated in this section, the EAP agreement, and the special performance evaluation, shall be subject to dismissal.

The Human Resource Office will advise the supervisor of the date of the return-to-duty test. The supervisor will advise the employee to submit to the test, and will send or give the employee the following forms:

- 1. Driver Briefing and Instructions for Drug Testing - information sheet retained by employee.***
- 2. Drug/Alcohol Test Authorization - completed by the Human Resource Office, faxed or mailed to the supervisor and given to employee to take to test/collection site.***

If a negative test result is obtained, the Human Resource Office will inform the supervisor, who will advise the employee when to return to work.

If a positive return-to-duty test is obtained, the employee will be subject to dismissal from employment.

POSITIVE TEST PROCEDURES AND REHABILITATION

A covered employee whose alcohol breath test shows an alcohol concentration of 0.02 or greater but less than 0.04, will be considered to be out-of-service and cannot perform safety sensitive functions for at least 24 hours following an alcohol test. The employee will be placed on leave without pay for any regularly assigned shift period within the first 24 hours after the test. *The employee will use the leave without pay (LWOP) time code for all hours the employee was scheduled to work during the 24-hour out-of-service period, which begins at the time a positive test is obtained.*

A covered permanent status employee who has a positive alcohol and/or controlled substances test will be subject to dismissal from employment. At its discretion, the Department may ask the employee to sign an Employee Assistance Program (EAP) Agreement in lieu of dismissal. An EAP substance abuse professional will evaluate the employee and may recommend an alcohol and/or drug rehabilitation program. Any required rehabilitation program must be taken through a state-licensed facility on either an out-patient or an in-patient basis, depending on the recommendation of the facility's rehabilitation professional. If a rehabilitation program is required, the facility rehabilitation professional will set the date for a return-to-duty test and the number of follow-up tests (minimum of six (6) tests) in the following twelve (12) months. If the

EAP substance abuse professional does not recommend an alcohol and/or drug rehabilitation program, the EAP substance abuse professional will set the date for a return-to-duty test and the number of follow-up tests (minimum of six (6) tests) in the following twelve (12) months.

If the Department chooses to dismiss the employee, the employee will be provided with a list of substance abuse professionals. The Department is not required to pay substance abuse professional expenses for the dismissed employee.

If a covered permanent status employee has a positive alcohol and/or controlled substances test, the following must be completed:

- 1. EAP and Follow-Up Testing Agreement – signed by the employee and supervisor; the original is forwarded to the Human Resource Office and a copy is retained by the employee.*
- 2. Employee Assistance Program information - information retained by employee to make required appointment.*
- 3. EAP Substance Abuse Professional Referral Letter - completed by Human Resource Officer; original sent to EAP and copy retained by Human Resource Office.*
- 4. Substance Abuse Professional Evaluation - sent by Human Resource Office to EAP.*

The employee must be given the opportunity to provide any information relevant to the positive test which the employee believes will affect the Department's decision to ask the employee to sign the EAP and Follow-Up Testing Agreement.

- If the employee provides additional information, the supervisor contacts the Human Resource Office for consultation on how to proceed.*
- The supervisor documents in the form of a memorandum that the employee was given the opportunity to provide additional information, any information provided by the employee, or if the employee declined to provide additional information. The memorandum is sent to the Human Resource Office confidentially.*

The employee will be placed on **leave without pay** until an appointment has been scheduled with the EAP substance abuse professional, documentation has been provided to the supervisor, and the supervisor confirms the appointment.

Leave benefits may then be used until the covered employee is approved to return to full work duties. Sick leave may only be used if the employee provides a written diagnosis from the substance abuse professional, counselor, or medical doctor of alcoholism or addiction. If no leave benefits are available or the employee chooses not to use paid leave, the employee

continues to be on leave without pay until the employee is approved to return to full work duties.

If the return-to-duty test is negative, the employee may return to work in the job originally assigned or another similar job as deemed appropriate by the Department. The employee must provide the supervisor with documentation of successful completion of any required rehabilitation program prior to being approved to return to work.

Covered employees who have insurance may be eligible to receive coverage for part of the rehabilitation program cost. The employee is ultimately responsible for paying the costs of a rehabilitation program.

DISCIPLINARY ACTIONS FOR COVERED EMPLOYEES

A covered employee who refuses to take any required tests, or fails to report for a test when scheduled shall be prohibited from performing safety sensitive functions and shall be subject to dismissal.

A covered employee who is relieved from duty because of reasonable suspicion, will be restricted from performing safety sensitive functions until test results are known. A covered **temporary or entrance probationary** employee who has a positive test shall be terminated from employment. A covered **permanent status** employee who has a positive test may be dismissed from employment, entirely at the discretion of the Department.

A covered **permanent status** employee who has a positive test and refuses to sign the EAP and Follow-Up Testing Agreement in lieu of dismissal and/or does not begin the Positive Test Procedures within five (5) working days shall be subject to dismissal from employment.

A covered employee who fails to successfully complete or refuses to participate in a required rehabilitation program shall be subject to dismissal from employment.

A covered employee who does not submit to a return-to-duty test on the date set by the substance abuse professional, refuses to take a return-to-duty test, or has a positive return-to-duty test shall be subject to dismissal from employment.

A covered employee who fails to submit to follow-up testing as recommended by the substance abuse professional, with a minimum of six (6) tests for a twelve (12) month period shall be subject to dismissal from employment.

A covered employee who tests positive a second time after the employee has had a positive alcohol and/or controlled substances test shall be subject to dismissal from employment.

A covered employee who is subject to Positive Test Procedures will be placed on written special performance evaluations for twelve (12) months from date of positive test, during which time they are not eligible to receive merit increases or promotions until the employee has successfully completed all required tests and counseling and/or rehabilitation programs.

A covered employee who is enrolled and participating in, or has completed a supervised

rehabilitation program and is no longer engaging in the illegal use of controlled substances, shall be protected from discrimination by the Americans With Disabilities Act of 1990.

Covered employees who are dismissed, or voluntarily quit, as a result of any action related to alcohol and/or drug-free workplace requirements are **not eligible** for consideration for re-employment for a period of twelve (12) months and until proof of successful completion of an alcohol and/or drug rehabilitation program is provided and a negative test result is received.

CONFIDENTIALITY

A covered employee's privacy rights must be maintained. Any intervention steps that the employee is required to take, including referral for treatment, counseling or rehabilitation programs, shall be kept confidential. Information about the violation or treatment shall not be shared with co-workers or peers. Information will only be given to management on a need-to-know basis.

A covered employee may request detailed results of his or her own test by completing the Request for Results - Alcohol and Controlled Substance Testing Program form and submitting it to the Human Resource Office.

OTHER ALCOHOL AND/OR DRUG-FREE WORKPLACE REQUIREMENTS

Any employee convicted of violating a criminal alcohol and/or drug statute that relates to the workplace, or affects the employee's ability to perform job duties, shall notify the appropriate bureau chief or regional supervisor no later than five (5) days after the conviction.

Within thirty (30) days of receiving notice of an employee's conviction, the Department shall:

- Take appropriate disciplinary action against the employee up to and including dismissal.

AND/OR

- Require the employee to complete a Department-approved rehabilitation program.

Conviction of a felony, a plea of guilty to a felony, a plea of no contest to a felony, receiving a suspended imposition of a sentence for a felony, or a withheld judgment for a felony will all be considered the same as a felony conviction.

Other references and procedures about disciplining employees who misuse alcohol and/or unlawfully manufacture, distribute, dispense, possess, or use controlled substances on the job are addressed in the Department's Policy Manual, and Drug-Free Workplace policies.